

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ARTHUR ARNOLD, Special  
Administrator  
of the Estate of  
DANIEL ARNOLD, deceased,**

**Plaintiff,**

**v.**

**MILLER, d/b/a MILLER SAFETY &  
FIRST AID PRODUCTS, HAUN DROP  
FORGE CO., LTD., PENS SAFE, INC., &  
ELK RIVER, INC.,**

**Defendant.**

**No. 08-234-DRH**

**ORDER**

**HERNDON, Chief Judge:**

On December 11, 2008, Plaintiff Arthur Arnold filed a five count amended complaint against Defendants Miller, d/b/a Miller Safety & First Aid Products, Haun Drop Forge Co., LTD., Pensafe, Inc., & Elk River, Inc., for the wrongful death of Daniel Arnold (Doc. 103). On December 15, 2008 Defendant Elk River filed an amended counterclaim seeking contribution and indemnification from Defendants Pensafe, Inc. and Haun Drop Forge Co., LTD's, n/k/a Pensafe, Inc. (Doc. 104).

Now before the Court is Defendants/Counter-Defendants Pensafe, Inc. and Haun Drop Forge Co., LTD's, n/k/a Pensafe, Inc., motion to strike (Doc. 122). Specifically, Defendants seek to strike the prayer for attorney fees in Counts III and IV of Elk River, Inc's Amended Counterclaims for Contribution and Indemnity.

Defendant argue that Elk River's claims in Counts III and IV are based on common law indemnity and it is therefore not entitled to attorney fees.

However, on July 23, 2009, Defendant Elk River filed a Notice (Doc. 127) withdrawing its request for attorney's fees included in Counts III and IV. Therefore, Elk River's request for attorney's fees in Counts III and IV are **WITHDRAWN** and the Court **DENIES AS MOOT** Defendants/Counter-Defendants Pensafe, Inc. and Haun Drop Forge Co., LTD's motion to strike attorney fees (Doc. 122).

**IT IS SO ORDERED.**

Signed this 28th day of July, 2009.

/s/ David R. Herndon

**Chief Judge**  
**United States District Court**